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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

EOLAS TECHNOLOGIES  
INCORPORATED,  
  
Plaintiff,  
  
v.  
  
GOOGLE INC.,  
  
Defendant.

Case No: 3:17-cv-01138-JST  
  
**~~[PROPOSED]~~ ORDER REGARDING  
AUGUST 2, 2017 CASE MANAGEMENT  
CONFERENCE**

EOLAS TECHNOLOGIES  
INCORPORATED,  
  
Plaintiff,  
  
v.  
  
AMAZON.COM, INC.,  
  
Defendant.

Case No: 3:17-cv-03022-JST

EOLAS TECHNOLOGIES  
INCORPORATED,  
  
Plaintiff,  
  
v.  
  
WAL-MART STORES, INC.,  
  
Defendant.

Case No: 3:17-cv-03023-JST

1 This Court, having reviewed the Joint Case Management Statements filed in each of the  
 2 above-captioned cases, and having held a Case Management Conference with all parties on  
 3 August 2, 2017, rules as follows:

4 It is hereby ORDERED that:

5 **Early Summary Judgment**

6 Defendants Google, Inc. (“Google”), Amazon.com, Inc. (“Amazon”), and Wal-Mart  
 7 Stores, Inc. (“Walmart”) (collectively, “Defendants”) may file a motion for summary judgment  
 8 with a single brief, either jointly or by one of the Defendants, on one or more of the issues of  
 9 double patenting, obviousness-type double patenting, collateral estoppel, and res judicata  
 10 (including the *Kessler* doctrine). Plaintiff Eolas Technologies, Inc. (“Eolas”) may cross-move on  
 11 any of the issues raised by the Defendants at the time for its opposition brief. The parties shall  
 12 submit a stipulation with the briefing schedule to the Court by August 4, 2017. Motions for  
 13 summary judgment shall comply with Civil Local Rule 7 in all respects. This Court’s Standing  
 14 Order for all Civil Cases Before District Judge Jon S. Tigar states that the Court will consider  
 15 only one motion for summary judgment absent good cause. Good cause being shown here, the  
 16 motion for summary judgment described above (and any cross motion) shall not be the only  
 17 motion for summary judgment that may be filed by a party in their respective cases.

18 **Technology Tutorial**

19 The parties shall send an email to the Courtroom Deputy Clerk identifying the docket  
 20 number for the Joint Claim Construction Statement filed in the Eastern District of Texas. The  
 21 parties shall also lodge with the Court the technology tutorials previously submitted to the  
 22 Eastern District of Texas. After the Court has reviewed these materials, it will set a date and  
 23 time for a technology tutorial.

24 **Reconsideration of Claim Construction**

25 The parties shall meet and confer regarding a schedule for the anticipated motion for  
 26 reconsideration of “interactive-content application” in the previously issued claim construction  
 27 order. The parties shall submit a stipulation with the briefing schedule to the Court by August 4,  
 28 2017.

**Amazon's Motion for Order to Show Cause Regarding McKool Smith's Violation of Prosecution Bar**

Regarding Amazon's Motion for Order to Show Cause Regarding McKool Smith's Violation of Prosecution Bar (Dkt. 262),<sup>1</sup> the Court will review the submitted briefings and issue an order as to whether the prosecution bar expired on July 22, 2014 or October 20, 2014, and may order oral argument if the Court feels it is necessary. Upon issuance of the Court's order, the parties will meet and confer about next steps including production of documents or *in camera* review of additional documents by the Court.

**Eolas's Motion to Disqualify Latham & Watkins**

On August 11, 2017, Eolas and Amazon shall file a stipulation as to which choice of law applies to Eolas's disqualification motion. In the event the parties cannot reach agreement, Eolas and Amazon shall both file a brief regarding choice of law for Eolas's disqualification motion. These briefs shall not exceed 10 pages, but shall otherwise comply with Civil Local Rule 7 in all respects. Should the parties file briefs on August 11, 2017, the parties shall file opposition briefs on August 18, 2017. The opposition briefs shall not exceed 7 pages, but shall otherwise comply with Civil Local Rule 7 in all respects. The parties may not raise new arguments in the opposition briefs and no further briefing will be allowed.

**Discovery**

These cases will be referred to a magistrate judge for all discovery purposes. In addition, the following motions will be considered and ruled on by the appointed magistrate judge: Defendants' Motion for Leave to Supplement Their Patent Rule 3-3 Invalidity Contentions and Rule 3-4(b) Document Production (Dkt. 203); Defendants' Motion for Leave to File a Supplemental Brief in Support of Their Motion for Leave to Supplement Their Patent Rule 3-3 Invalidity Contentions and Rule 3-4(b) Document Production (Dkt. 241); and Walmart's Motion to Compel Previous Litigation Documents and Email Production from Eolas Technologies Incorporated (Dkt. 221; joined by Amazon and Google in Dkt. 226, Dkt. 227).

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<sup>1</sup> Docket numbers referenced herein are to the docket of Case No: 3:17-cv-03022-JST.

**Deadline to Amend Pleadings**

The deadline to amend pleadings shall be August 15, 2017. After this deadline, a party may still seek amendment, but must demonstrate good cause. Fed. R. Civ. P. 16(b)(4).

**Infringement Contentions**

Eolas and Google shall meet and confer regarding Eolas's Infringement Contentions and shall file a letter brief not exceeding five pages, single spaced, with a description of their dispute, if there is one, and a proposed method of resolving that dispute by no later than August 25, 2017 at 5:00 p.m.

**Further Case Management Conference**

The Court will hold a Further Case Management Conference on December 5, 2017 at 2:00 P.M. in Courtroom 9, 19<sup>th</sup> Floor, Phillip Burton Federal Building, 450 Golden Gate Avenue, San Francisco, CA 94102. The parties will submit Joint Case Management Statements no later than November 28, 2017.

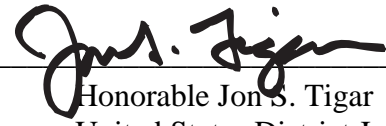
IT IS SO ORDERED.

It is further ORDERED that all deadlines of the Court in the above-captioned cases shall occur by 5:00 P.M. on the day of the deadline unless otherwise ordered. The above deadlines are summarized below. All other prior case deadlines remain stayed pending the entry of a further schedule at the December 5, 2017 Further Case Management Conference.

DEADLINE DESCRIPTION	DATE
Parties to submit schedule for early summary judgment briefing and motion for limited reconsideration of claim construction	Friday, August 4, 2017
Eolas and Amazon to submit stipulation as to choice of law for Eolas's disqualification motion, or submit opening briefs regarding choice of law	Friday, August 11, 2017
Deadline to Amend Pleadings	Tuesday, August 15, 2017

DEADLINE DESCRIPTION	DATE
If no stipulation filed, Eolas and Amazon to submit opposition briefs on Eolas's disqualification motion	Friday, August 18, 2017
Eolas and Google to submit letter brief regarding Eolas' Infringement Contentions	Friday, August 25, 2017
Further Case Management Conference	Tuesday, December 5, 2017

Dated: August 8, 2017



Honorable Jon S. Tigar  
United States District Judge

1 DATED: August 4, 2017

Respectfully submitted,

2  
3 By /s/ Richard Frenkel

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**ATTESTATION**

I, Rick Frenkel, am the ECF user whose userid and password authorized the filing of this document. Under Civil L.R. 5-1(i)(3), I attest that all signatories to this document have concurred in this filing.

DATED: August 4, 2017

/s/ Richard Frenkel  
Richard G. Frenkel